

1 RICK A YARNALL
Chapter 13 Bankruptcy Trustee
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Nevada Bar No. 11536
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5

6 UNITED STATES BANKRUPTCY COURT
7 DISTRICT OF NEVADA

8 In re:

9 ANGEL LEE BOGAN,
10

11 Debtor.
12

BK-S-18-11488-MKN
Chapter 13

Hearing Date: July 12, 2018
Hearing Time: 2:00 p.m.

13 **TRUSTEE'S MOTION TO DISMISS CASE**
14 **PURSUANT TO 11 U.S.C. § 1307(c)(1), (3) AND (4)**

15 COMES NOW Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, by and through his
16 counsel of record, Benjamin Chambliss Esq., and hereby moves this Honorable Court for an Order
17 dismissing the instant case for unreasonable delay by the debtor that is prejudicial to creditors, failure
18 to timely file a plan and failure to commence payments pursuant to 11 U.S.C § 1307(c)(1), (3) and
19 (4).

20 11 U.S.C. § 1321 and Fed. R. Bankr. Proc. 3015(b) requires chapter 13 debtors to file a plan
21 within 14 days of filing their petition. Section 1307(c)(3) states that a case may be dismissed for
22 failure to timely file a plan. The Debtor was required to file his plan by April 4, 2018. The Debtor
23 still has not filed his plan.

1 Further, 11 U.S.C. § 1326(a)(1) requires debtors to commence making plan payments no later
2 than 30 days after the filing of the plan or the order for relief, whichever is earlier. Section
3 1307(c)(4) states that a case may be dismissed for failure to commence making timely payments
4 under § 1326. In this case, the Debtor should have commenced making his plan payments on April
5 21, 2018. The Debtor has yet to make a payment.

6 Also, 11 U.S.C. § 1307(c)(1) states that a case may be dismissed for unreasonable delay
7 by the debtor that is prejudicial to creditors. The Debtor filed the instant case on March 21,
8 2018. See Docket No. 1. The Notice of Chapter 13 Bankruptcy Case scheduled the Debtor's §
9 341 (a) Meeting of Creditors for March 27, 2018. See Docket No. 2. The Debtor failed to
10 appear at his scheduled hearing. Consequently, the hearing was taken off calendar. Further, the
11 Debtor is going on three months in his chapter 13 bankruptcy case and still has not filed a plan,
12 set a plan for confirmation or commenced making plan payments. Trustee asserts that the
13 Debtor's failure to appear at his scheduled § 341 (a) Meeting of Creditors, set a plan for
14 confirmation and commence making plan payments is prejudicial to the Debtor's creditors.
15 Furthermore, the Debtor's creditors are harmed by the delay because the automatic stay is in
16 effect while the Debtor has done nothing to move his case forward. Therefore, Trustee requests
17 the Court to dismiss this instant case based on the foregoing reasons.

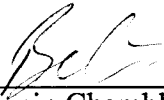
18 WHEREFORE, the Trustee respectfully requests that this Honorable Court issue an Order
19 dismissing the instant case for unreasonable delay for failure to appear at the § 341(a) meeting of
20 creditors hearing, failure to set a plan for confirmation, and failure to commence plan payments
21 pursuant to § 1307(c)(1), (3) and (4).

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1 DATED this 1 day of June, 2018

2 Submitted by:

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5 _____
6 Benjamin Chambliss Esq.
7 Nevada Bar No. 11536
8 701 Bridger Ave., Suite 820
9 Las Vegas, NV 89101
10 Attorney for RICK A. YARNALL,
11 Chapter 13 Bankruptcy Trustee
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[PROPOSED ORDER]

RICK A YARNALL
Chapter 13 Bankruptcy Trustee
Benjamin Chambliss Esq.
Nevada Bar No. 11536
701 Bridger Ave., Ste 820
Las Vegas, NV 89101
(702) 853-4500
RAY13mail@lasvegas13.com

E-Filed: _____

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

BK-S-18-11488-MKN
Chapter 13

ANGEL LEE BOGAN,

**ORDER ON TRUSTEE'S MOTION TO
DISMISS CASE PURSUANT TO 11 U.S.C. §
1307(c)(1), (3) AND (4)**

Debtor.

Hearing Date: July 12, 2018
Hearing Time: 2:00 p.m.

Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) having come on for hearing in the above-entitled Court on July 12, 2018, at 2:00 p.m., with counsel appearing on behalf of Chapter 13 Bankruptcy Trustee, RICK A. YARNALL, other appearances as noted on record, argument having been heard, and based upon the papers and pleadings on file herein, and good cause appearing:

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1 IT IS HEREBY ORDERED that Trustee's Motion is GRANTED and the above captioned
2 bankruptcy proceeding is DISMISSED pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4);

3 IT IS SO ORDERED.

4 Submitted by:

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6 _____
7 Benjamin Chambliss Esq.
8 Attorney for Rick A. Yarnall,
9 Chapter 13 Bankruptcy Trustee
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Date: _____

1 In accordance with LR 9021, counsel submitting this document certifies that the order accurately
2 reflects the court's ruling and that (check one):

3 ☐ The court has waived the requirement set forth in LR 9021(b)(1).

4 ☐ No party appeared at the hearing or filed an objection to the motion.

5 ☐ I have delivered a copy of this proposed order to all counsel who appeared at the
6 hearing, and any unrepresented parties who appeared at the hearing, and each has
7 approved or disapproved the order, or failed to respond, as indicated below [list each
8 party and whether the party has approved, disapproved, or failed to respond to the
9 document]:

10 ☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this
11 order with the motion pursuant to LR 9014(g), and that no party has objected to the
12 form or content of the order.

13 Date: _____

14 _____
15 An Employee of Rick A. Yarnall
16 Chapter 13 Bankruptcy Trustee

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of RICK A. YARNALL, Chapter 13 Trustee; that I am over the age of 18 years; and that on the 14th day of June, 2018, I provided a copy of the **Trustee's Motion to Dismiss Case Pursuant to 11 U.S.C. § 1307(c)(1), (3) and (4) and Notice of Hearing** to each of the following by:

☐ a. ECF System:

☒ b. United States mail, postage fully prepaid:

ANGEL LEE BOGAN
3614 HAMMOCK STREET
LAS VEGAS, NV 89147

☐ c. Personal Service

☐ d. By direct email (as opposed to through the ECF System)

☐ e. By fax transmission

/s/ Leah Engel

Leah Engel, an Employee of
RICK A. YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE